

REMARKS

I. Specification Objection

The Examiner objected to the specification for failing to provide antecedent basis for the claimed subject matter, namely, “temporarily stabilizing means is spaced from said upper and lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other.” The specification with respect to Figure 16 is amended accordingly and this objection is now moot.

II. Withdrawn Claims

While the Examiner listed a number of claims as withdrawn based on non-election without traverse, Applicants respectfully request that the Examiner reconsiders the withdrawal of the combination claims, Claims 22, 23, 25 and 26.

Applicants respectfully submit that Claims 22, 23, 25, and 26, were originally withdrawn due to the alleged lack of a generic claim. At the time Claims 22, 23, 25, and 26 were withdrawn by the Examiner, the scope of these combination claims were identical to allowed combination Claim 24. Because of the withdrawn status of Claims 22, 23, 25, and 26, Applicants were unable to amend these claims to be identical in scope as Claim 24, as intended. Similar combination claims were issued in the parent Patent No. 6,719,796. See, U.S. Patent No. 6,719,796 Claims 14, 15 and 16. Therefore, Applicants respectfully request the Examiner issue an Examiner’s Amendment for Claims 22, 23, 25, and 26, as follows, and allow these claims based on the presence of a generic claim:

22. (Currently Amended) The combination of an artificial disc and a substance comprising: at least one upper substantially flat ~~two~~ plate members and one lower substantially flat plate member, each plate member having a corresponding outer and inner bearing surfaces; ~~at least one means for temporarily stabilizing said plate members for a certain period of time to allow at least two of said plate members to osteo-integrate with said adjacent vertebrae;~~

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members ~~after said certain period of time~~ to allow compression of the adjacent vertebrae;

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

a substance that promotes osseous integration and bone in-growth adjacent to said plate members.

23. (Currently Amended) The combination of an artificial disc and a substance comprising: at least one upper substantially flat ~~two~~ plate members and one lower substantially flat plate member, each plate member having a corresponding outer and inner bearing surfaces;

~~at least one means for temporarily stabilizing said plate members for a certain period of time to allow at least two of said plate members to osteo-integrate with said adjacent vertebrae;~~

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members ~~after said certain period of time~~ to allow compression of the adjacent vertebrae;

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

a substance with hemostatic drug eluting factors to control bleeding adjacent to said plate members.

25. (Currently Amended) The combination of an artificial disc and a substance comprising: at least one upper substantially flat ~~two~~ plate members and one lower substantially flat plate member, each plate member having a corresponding outer and inner bearing surfaces;

~~at least one means for temporarily stabilizing said plate members for a certain period of time to allow at least two of said plate members to osteo-integrate with said adjacent vertebrae;~~

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members ~~after said certain period of time~~ to allow compression of the adjacent vertebrae;

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

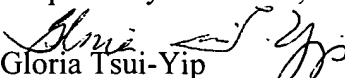
a substance with anti-tumor drugs to control or eradicate tumors adjacent to said plate members.

26. (Currently Amended) The combination of an artificial disc and a substance comprising:
at least one upper substantially flat ~~two~~ plate members and one lower substantially flat plate member, each plate member having a corresponding outer and inner bearing surfaces;
~~at least one means for temporarily stabilizing said plate members for a certain period of time to allow at least two of said plate members to osteo-integrate with said adjacent vertebrae;~~
at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members after said certain period of time to allow compression of the adjacent vertebrae;
means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and
a substance with pain-controlling factors to control pain adjacent to said plate members.

III. Conclusion

By virtue of the Applicants' amendment to the specification and remarks thereto, all outstanding grounds of objection have been addressed and dealt with and, based thereon, it is believed that the application is now in condition for allowance, including Claims 22, 23, 25 and 26 and such action is respectfully solicited.

Respectfully submitted,


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